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SENATE JOURNAL  
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# THE INTERIM

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MAY 2000

HELENA, MONTANA

VOL. XII NO. 12

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## SPECIAL LEGISLATIVE SESSION

Governor Calls Special Session... Governor Marc Racicot has called a special legislative session to begin May 8 at 9 a.m. in Helena. The purpose of the special session is to appropriate funds from the general fund for the programs that were established in House Bill No. 260. In addition, the Legislature will also be asked to consider legislation clarifying House Bill No. 555 that provides for bonding to support aerospace, transportation, and technology infrastructure projects and legislation confirming gubernatorial judicial appointees.

Because the Capitol Building is closed for renovation, the Senate will meet in the auditorium of the Scott Hart Building, 302 N. Roberts, and the House will meet in the auditorium of the Department of Public Health and Human Services, 111 N. Sanders. Arrangements are being made for ancillary rooms for committee meetings, leadership offices, and staff support offices. Facilities will be somewhat restricted, but efforts are being made to make the spaces work as well as possible. Prior to the session, each legislator will receive more detailed information as to the location of meeting rooms, offices, parking, and other logistical details.

The Legislative Information phone number (444-4800) will be activated. Messages will be taken and delivered to legislators.

For further information as it develops, please visit the Legislative Branch website at <http://leg.state.mt.us/> under "2000 Session".

Legislature Calls for Concurrent Special Session... The Legislature has called for a special session to run concurrently with the special session called by the Governor. Below is a copy of the successful petition.

**PETITION OF THE FIFTY-SIXTH LEGISLATURE  
FOR A CALL OF SPECIAL SESSION**

WE THE UNDERSIGNED, being a majority of the members of the Fifty-Sixth

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Legislature, pursuant to Article V, section 6, of the Montana Constitution and section 5-3-101, MCA, hereby convene the Fifty-Sixth Legislature into special session in Helena, to run concurrently with the special session beginning May 8, 2000, called by the Governor.

*The special session hereby convened shall consider legislation to reduce taxes.*

*Members of the Fifty-Sixth Legislature:*

<i>John Mercer</i>	<i>Mark Noenning</i>	<i>Scott Orr</i>
<i>Chuck Swysgood</i>	<i>Edith Clark</i>	<i>Chris Ahner</i>
<i>Don Hargrove</i>	<i>Aubyn Curtiss</i>	<i>Cliff Trexler</i>
<i>Doug Mood</i>	<i>Lila Taylor</i>	<i>Allan Walters</i>
<i>Dale Mahlum</i>	<i>Joe McKenney</i>	<i>Gerry Devlin</i>
<i>Dale Berry</i>	<i>Jim Shockley</i>	<i>Thomas Keating</i>
<i>William Crismore</i>	<i>Karl Ohs</i>	<i>Ken Miller</i>
<i>Bob DePratu</i>	<i>Robert Story, Jr.</i>	
<i>Bruce Simon</i>	<i>Marian Hanson</i>	
<i>Dan McGee</i>	<i>Don Hedges</i>	
<i>Bob Davies</i>	<i>Gay Ann Masolo</i>	
<i>Verdell Jackson</i>	<i>Roger Somerville</i>	
<i>S y l v i a</i>	<i>Lorentz Grosfield</i>	
<i>Bookout-Reinicke</i>	<i>Reiny Jabs</i>	
<i>Brad Molnar</i>	<i>Bob Lawson</i>	
<i>Bill Tash</i>	<i>William Glaser</i>	
<i>Joe Barnett</i>	<i>Bob Keenan</i>	
<i>Joan Andersen</i>	<i>Chase Hibbard</i>	
<i>Bill Thomas</i>	<i>Arnie Mohl</i>	
<i>Alvin A. Ellis</i>	<i>Mike Sprague</i>	
<i>Steve Vick</i>	<i>Betty Lou Kasten</i>	
<i>Tom Beck</i>	<i>Tom Zook</i>	
<i>Bruce Crippen</i>	<i>Loren Soft</i>	
<i>Larry Grinde</i>	<i>John Rose</i>	
<i>Paul Sliter</i>	<i>Daniel Fuchs</i>	
<i>Fred Thomas</i>	<i>Robert Clark</i>	
<i>Walter McNutt</i>	<i>Shiell Andersen</i>	
<i>Mike Taylor</i>	<i>Rod Bitney</i>	
<i>Ric Holden</i>	<i>P e g g y Ar n o t t</i>	
<i>E.P. Ekegren</i>	<i>Bergsagel</i>	
<i>John Witt</i>	<i>Darrel Adams</i>	
<i>Roy Brown</i>	<i>Dick Haines</i>	
<i>Duane Grimes</i>	<i>John Holden</i>	
<i>Stan Fisher</i>	<i>William Rehbein, Jr.</i>	
<i>John Bohlinger</i>	<i>Matt Brainard</i>	
<i>Jay Stovall</i>	<i>Douglas Wagner</i>	

## CAPITOL RENOVATION

Moving Back In...It's about to happen! After years of planning and months of construction, the Department of Administration will soon be moving folks back into the Capitol. Between mid-May and mid-June, the Legislative Services Division, Legislative Fiscal Division, Governor's Office, and Office of Budget and Program Planning will return to new digs in a beautifully restored facility. Four large committee rooms, which can be divided into eight smaller rooms, also will be available on the first floor by early June.

A Pleasant Surprise...If you have not seen the work in progress recently, expect to be surprised by the transformation that has taken place in our Capitol. As you enter the building, you will be greeted with new ornamental plaster cornices, new mosaic tile floors, and decorative stenciling and woodwork that all reflect the character of the original building. Perhaps the most spectacular area is the rotunda and grand staircase that now have rainbows of light flooding in from the stained glass in the reconstructed barrel vault. This is an area where it is fun to take some time to really enjoy all the new finishes including stenciling, decorative painting, and restoration of the scagliola. Still to come is the installation of chandeliers, additional stained glass, marble floors, and period-style light fixtures. Equally impressive, but somewhat less noticeable, are the many infrastructure changes, including air-conditioning, new wiring, and expanded telecommunications.

Construction to Continue...Building occupants and users, however, should expect some inconvenience and disruption after moving in. Construction will continue in the west wing and on the third and fourth floors of the building. Parking will be limited; the contractor will retain parking on the west side of the south oval and part of the parking lot across the street for use as a staging area. The cafeteria, which is scheduled for renovation later this year, will not be available. Repairs to the north entrance and landscaping will not be completed. Additionally, protective covers over the new tile floors, doors, and woodwork will remain in place until moving is completed.

Tours Available for Legislators...The contractors will be extremely busy in the next few weeks completing the many remaining projects. We are doing our best to avoid any interference with their work. However, we would like to accommodate legislators' request to tour the building while in town for the special session. To that end, we will be providing tours of the Capitol for legislators on Sunday, May 7 at 2:00 and 4:00 p.m. Please call Marsha Sager at (406) 444-3064 to sign up for a tour.

We are proud of the work that has been done and appreciate the support that the Legislature has provided, which was essential to getting this complex project going and completed. We hope that you are as pleased with the project as we are, and that all Montanans will be proud of their newly restored "Crown Jewel."

## BUSINESS, LABOR, AND AGRICULTURE COMMITTEE

Committee Addresses Privatization...The Business, Labor, and Agriculture Committee met on April 19-20 in Helena to review the privatization efforts of other states, discuss any legal barriers or concerns related to privatization, and address a draft proposal for creating a competitive business environment. The principle components of the proposal are as follows:

- ▶ Establish a private preference policy for the delivery of goods and services when appropriate.
- ▶ Create a Competition Council to review state service delivery activities and compare public and private provider service proposals.
- ▶ Establish an administrative hearing process to provide for adequate public and private involvement in service delivery decisions.

These components, combined with a requirement that any service subject to the Competition Council's review must undergo a full cost analysis and mandatory request for proposal process, will be included in a Committee bill draft. The draft will be available prior to the June meeting to allow interested persons to comment on the preliminary draft language.

To Meet in June...The next Committee meeting has been scheduled for June 22 and 23. The location and time of the meetings will be determined in May. The tentative agenda includes reviewing the bill drafts requested by the Committee throughout the interim, agency presentations on proposed legislation, and any issues still being considered that relate to the HB 515 study (state competition with private sector).

Subcommittee to Schedule Meeting...The Workers' Compensation Subcommittee will determine its next meeting date, tentatively scheduled for late June, following the conclusion of the May special session of the Legislature. The announcement will be made in the June issue of **THE INTERIM**.

If you have any questions regarding the last Committee meeting or the Committee's upcoming schedule, please contact Gordy Higgins at 444-3064, or by e-mail at <gohiggins@state.mt.us>.

## LEGISLATIVE SERVICES DIVISION

### LEGISLATIVE LIBRARY

The following memorandums are available from the Legislative Library:

"Narrowing the Focus: Assessing Options for Improving Procurement and Contracting in Montana State Government", Report for State Administration,

Public Employees Retirement and Veterans' Affairs Committee, Dave Bohyer, March 2000 (also available at [http://leg.state.mt.us/Reports/Interim\\_Committees/State\\_Administration/staffreports.htm](http://leg.state.mt.us/Reports/Interim_Committees/State_Administration/staffreports.htm))

"Prescriptive Easements and Ways of Necessity", Report for the Eminent Domain Subcommittee of the Environmental Quality Council, Greg Petesch, January 2000  
(also available at <http://leg.state.mt.us/Reports/legalindex.htm>)

"Privatization Proposals in Other States", Report for the Business, Labor, and Agriculture Committee, Gordon Higgins, April 2000

Copies of all memorandums are available from the Legislative Library. To obtain a copy, please call 444-3064 or e-mail a request to <[efurbush@state.mt.us](mailto:efurbush@state.mt.us)>.

## **MENTAL HEALTH MANAGED CARE SUBCOMMITTEE**

Meeting Rescheduled...The meeting of the Mental Health Managed Care Subcommittee, originally scheduled for May 11, has been rescheduled for June 7 due to the special legislative session. If meeting rooms are completed, the June meeting will be held in the Capitol Building. For further information about the meeting, please contact Lois Steinbeck, Legislative Fiscal Division, at 444-5391.

## **CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE**

Meeting Rescheduled...The next meeting of the Children, Families, Health, and Human Services (CFHHS) Committee, originally scheduled for May 12, has been rescheduled for Wednesday, June 21, due to the special legislative session. The agenda will include reports from the DPHHS on its executive planning process, FAIM II, the Montana Dental Access Coalition, and the Governor's Council on Families. The Committee will receive a briefing on a Legislative Finance Committee report on possibilities for the TANF Block Grant. The Subcommittee on the Tobacco Settlement will be reviewing the status of various proposals.

The Montana Dental Access Coalition met on April 7 to work on its strategies for dental access. A planning committee meeting will be held on May 12 to prepare a presentation to the CFHHS Committee on June 21. For more information contact Susan Byorth Fox at (406) 444-3597 or Cheri Seed at (406) 444-0276.

All Committee minutes, reports, and agendas and a link to Montana Dental Summit Information have been posted to the new interim committee website at: [http://leg.state.mt.us/interim\\_committees/](http://leg.state.mt.us/interim_committees/).

For more information or if you wish to be placed on the interested persons list, please contact Susan Byorth Fox by phone at (406) 444-3597, e-mail at <sfox@state.mt.us>, or mail to Legislative Services Division, PO Box 201706, Helena MT 59620-1706.

## STATE ADMINISTRATION, PUBLIC RETIREMENT SYSTEMS, AND VETERANS' AFFAIRS COMMITTEE

Committee Holds Sixth Meeting...At its sixth meeting of the interim on March 30-31, the State Administration, Public Retirement Systems, and Veterans' Affairs Committee (SAIC) continued to finalize recommendations to improve state contracting laws, and the Subcommittee on Disability and Retiree Health Care continued to examine financing vehicles for paying retiree health costs on a tax-free basis. The Military and Veterans Affairs' Subcommittee did not meet, but continues to receive periodic staff updates on the progress of the ad hoc Veterans' Resource Coalition established by the Department of Military Affairs to respond to the Subcommittee's interest in improving services for homeless veterans.

Progress on Study of State Contracting...The SAIC worked diligently for the entire day on Thursday, March 30, to accomplish members' goals regarding the SJR 9 state contracting study. Among other activities, the Committee took the following actions below. (\*Please note that LC numbers used to refer to bill drafts are not actual Legislative Council numbers, but refer to the bill draft number assigned for SAIC purposes only.)

1. Requested staff to prepare legislation affecting purchasing preferences:
  - ▶ a bill to eliminate resident and Montana-made preferences; and
  - ▶ a bill to establish state-to-state reciprocity for resident and Montana-made preferences.
2. Requested staff to prepare legislation expanding the statutory list of available procurement tools (beyond "sealed bid" and "sealed proposal"). The legislation would allow the state to employ more procurement concepts, including: "best value"; problem oriented proposals; "requests for quotation and qualifications"; the expansion of the sole source definition; "design/build"; and promotion of e-commerce.
3. Requested staff to formally prepare legislation regarding interest rates on overdue payments. The provisions of SAIC bill draft LC0001 will form the basis for the bill and a few minor revisions will be made.
4. Requested staff to formally prepare legislation regarding bid/award protests and the processes available with respect to protests. The provisions of SAIC

bill draft LC0002 will form the basis for the bill and a few minor revisions will be made.

5. Requested staff to formally prepare legislation regarding the general applicability of the Montana Procurement Act. The provisions of SAIC bill draft LC0003 will form the basis for the bill and a few minor revisions will be made.
6. Requested staff to formally prepare legislation revising current law to clarify policy on contracts between the state and current or former employees. The provisions of SAIC bill draft LC0004 will form the basis for the bill. The language will clarify to whom and under what conditions the restrictions apply. The goal of the legislation is to guard against improper contract relationships and the appearance of improper relationships.
7. Requested staff to formally prepare legislation regarding the scope of the Montana Procurement Act to ensure that procurements made with funds granted by the state follow the Act. The provisions of SAIC bill draft LC0005 will form the basis for the bill. Additional research will be conducted examining the inclusion of "recreational" as a category of applicability. Further clarification and specification is desired by the SAIC.
8. Requested staff to formally prepare legislation regarding procurement outreach, procurement training, and procurement staffing. The legislation is to include funding. The outline of the legislation requested is as follows.

For procurement outreach, the legislation would provide:

- ▶ that the Department of Administration (DOA) will develop and execute an outreach initiative patterned after the Oregon Partners in Purchasing program. The initiative would likely be for activities to be held in conjunction with a statewide, high-participation, high-profile buyers' conference and vendors' fair. Est. cost: ± \$25,000 annually and includes 1/2 FTE; and
- ▶ that the DOA will establish automatic notification of vendors by Internet e-mail. In conjunction with the notification system, the DOA would develop and deploy systems to allow the submission of bids and proposals over the Internet and to allow bid award over the Internet. The systems would also provide for both the submission and payment of claims over the Internet. Est. cost: ± \$45,000 purchase (one-time) and ± \$1,500 annual maintenance. (The cost of Internet security/encryption, if more is necessary, is not included in the estimate.)

For procurement and contract management training, the legislation would provide:

- ▶ that the DOA will take a two-pronged approach to procurement and training. First, DOA would employ appropriate national certification programs as a competency indicator for certain decisions regarding hiring

or retention of a contracts officer or assistant or of a contract manager. Concurrently, the DOA would develop and employ state certification programs as a competency indicator for certain decisions regarding hiring or retention as a contract officer or assistant or as a contract manager. The certification and training initiative would occur gradually, targeting an estimated 15 contract officersassistants each year and 15 contract managers each year. The estimated cost is \$500 for each person obtaining certification and training, plus the expense ( $\pm \$45,000$ ) for developing and delivering on-going, state-specific training; includes 1/2 FTE. (Total of  $\pm \$75,000$  annually.)

For procurement, contract management, and contract enforcement staffing, the legislation would:

- ▶ provide for an additional DOA contract officer and contract assistant for the FY 2002-03 biennium. Est. cost is  $\pm \$72,500$  annually;
- ▶ provide for a contract manager for the FY 2002-03 biennium. Est. cost is  $\pm \$47,500$  annually;
- ▶ provide that DOA assess current demand for and use of contract litigation support and determine the level to which agency legal counsel and Agency Legal Services staff should provide contract litigation support. Also, DOA would determine the use of and need for private attorneys for contract litigation support; and
- ▶ provide that, during next interim, there be an investigation of the needs in non-DOA agencies for procurement staff, contract management, and contract enforcement (litigation) support.

In summary, the estimated costs in the first fiscal year for implementing the above recommendations in No. 8 are:

- ▶  $\$ 25,000$  for outreach, patterned after Oregon's program;
- ▶  $\$ 46,500$  for automated notification, solicitation, bid submission/award, accounting, etc.;
- ▶  $\$ 75,000$  for contract officer/manager training;
- ▶  $\$ 72,500$  for contract officer/assistant staffing; and
- ▶  $\$ 47,500$  for contract manager staffing.

The subtotal for the initiatives is  $\pm \$266,500$ . The annual cost of the initiatives will decrease to  $\$221,500$  in subsequent years due to the  $\pm \$45,000$  one-time cost for purchasing the automatic notification, bidding, accounting system(s).

For additional details on the SJR 9 state contracting study, please check the SAIC website accessible through the Legislative Branch web page at [leg.state.mt.us](http://leg.state.mt.us). (From that location, click on "Committees". Then, from the list of interim committees, click on "State Administration, Public Employee Retirement Systems, and Veterans' Affairs".) You may also contact Dave Bohyer, Legislative Services Division, at 444-3064 in Helena.

Subcommittee Examines Financing for Medical Expenses..The Disability and Retiree Health Care Subcommittee reviewed a second staff paper further detailing two types of financing vehicles that could help public employees and retirees pay eligible medical expenses, including insurance premiums, on a tax-free basis. One vehicle examined was a Voluntary Employee Benefits Association (VEBA) trust fund. The other vehicle examined was an Internal Revenue Code section 401(h) sub-account of a pension trust fund. VEBA trust accounts and a 401(h) trust accounts are similar in the following ways:

- ▶ both allow employer contributions to be made on a tax-free basis, which, for public employers, means no FICA taxes are paid on the amounts contributed;
- ▶ both are trust accounts to which contributions are made and the assets can be invested to accrue tax-free earnings;
- ▶ eligible medical benefits paid from either account are not taxable. Eligible benefits include any tax-deductible medical expense, such as hospitalization, physical examinations, diagnostic procedures, and treatment therapies, or insurance premiums, such as Medicare B premiums, primary health insurance premiums, or supplemental disability insurance premiums, etc. that would otherwise have to be paid out-of-pocket (after taxes); and
- ▶ either account can be set up as a defined benefit plan (where benefits are fixed, costs are estimated, risk is pooled, and liabilities are underwritten by employers) or as a defined contribution plan (where individual accounts are set up and benefits paid depend on individual account balances).

However, there are also significant differences between these two approaches and each offers a different mix of advantages and disadvantages. VEBA trust funds must be administered under an independent board of trustees, while 401(h) accounts are administered under a pension plan. If an employee group, such as a collective bargaining unit, joins a VEBA, individual employees may not opt out. Under a 401(h), members are retirees of the pension plan. VEBA members can be active as well as retired employees. Unused sick leave and termination pay can be rolled into a VEBA account, but not into a 401(h) account. And, while contributions to VEBA accounts do not count against annual IRS limits on pension plan contributions or benefits, contributions to 401(h) accounts must be coordinated with IRS limits applicable to the pension plan. Finally, VEBA accounts cannot accept transfers from pension plan accounts, but 401(h) accounts can be funded by transferring in "excess" pension funds.

After examining VEBA and 401(h) accounts, Subcommittee members decided to employ the services of a consultant who could offer expert advice on the particulars of these accounts and help the Subcommittee determine whether and how to establish either a VEBA or a 401(h) on behalf of Montana's state, university, and local government employees.

A seminar and round table discussion with experts to identify issues and develop options regarding financing employee and retiree health plan expenses will

be conducted by the full SAIC on June 21 in Helena.

May Meeting Rescheduled...The SAIC will continue its review and discussion of state contracting issues and other issues in the coming weeks. SAIC Chairman Rep. Matt Brainard has requested that staff prepare for a Committee meeting during the May special session, which he will call as time allows. He has also cancelled the previously scheduled May 18-19 meeting and tentatively scheduled another meeting for June 20-21.

Legislative Visit to the Youth ChalleNGe Program...The SAIC Subcommittee on Military and Veterans' Affairs will be visiting the National Guard's Youth ChalleNGe program in Dillon on Thursday, June 22. The full SAIC and the Children, Families, Health, and Human Services Committee will also be invited to participate in the visit. The purpose of the visit is for legislators to see first hand the program's day-to-day operations and to talk one-on-one with program leaders, youth mentors, and students. No other Committee or Subcommittee business will be conducted during the visit.

For further information on the activities of the SAIC or its subcommittees, please contact Sheri Heffelfinger at 444-3596 or <[sheffelfinger@state.mt.us](mailto:sheffelfinger@state.mt.us)>. Information is also available on the SAIC website.

## DISTRICTING AND APPORTIONMENT COMMISSION

Commission Continues Preliminary Work...The Districting and Apportionment Commission has not yet scheduled its next meeting which is expected to be in September. Redistricting software is being researched and selection is anticipated by next month. Some of the Commission members and staff will be attending a National Conference of State Legislatures Redistricting "boot camp" and will bring home great information for the Commission's next meeting, which will involve adopting its criteria for redistricting.

For more information or if you wish to be placed on the interested persons list, please contact Susan Byorth Fox by phone at (406) 444-3597, by e-mail at <[sfox@state.mt.us](mailto:sfox@state.mt.us)>, or mail to Legislative Services Division, PO Box 201706, Helena MT 59620-1706.

## ENVIRONMENTAL QUALITY COUNCIL

Environmental Quality Council to Meet in Helena...The Environmental Quality Council (EQC) will be hold its next meeting in Helena on May 5 in the Director's Conference Room at the Department of Environmental Quality, 1520 E. Sixth Avenue. The EQC will hear updates and reports on coal bed methane,

Lockwood water quality issues, alternative livestock program implementation, and the Montana drought situation

To view the EQC's or any Subcommittee's minutes from previous meetings or EQC and Subcommittee work plans, agendas, and press releases, please visit the EQC website at <http://leg.state.mt.us/Services/lepo/index.htm>. If you have any questions or would like additional information or to be placed on the EQC interested persons mailing list, contact Todd Everts by phone at 444-3747 or by e-mail at <teverts@state.mt.us>.

Water Policy...The EQC's Water Policy Subcommittee will meet again on May 4 in Helena. The meeting will begin at 8 a.m. in Room B7 of the Federal Building. The Subcommittee will discuss the regulation of hog farms and will be updated on current water policy issues. In addition, members will hold a joint meeting with the EQC's Land Use/Environmental Trends Subcommittee (see below for more information). For more information, contact Mary Vandenbosch by phone at 444-5367 or by e-mail at <mvandenbosch@state.mt.us>. Information is also available on the EQC website.

Land Use/Environmental Trends...The Land Use/Environmental Trends Subcommittee will meet on May 4 from 10 a.m. to Noon in Room B7 of the Federal Building. Agenda topics include:

- ▶ a discussion of whether or not additional funding is needed for local governments to develop and implement growth policies. Organizations with an interest in land use planning or local government will be invited to share their perspective on this question as well as potential funding sources; and
- ▶ a review and discussion of information collected about local efforts to address residential development in riparian areas.

The Subcommittee will hold a joint meeting with the Water Policy Subcommittee to address the topic of environmental trends (see below for details).

Subcommittee work plans, agendas, and minutes are available on the EQC website. Contact Mary Vandenbosch by phone at 444-5367 or by e-mail at <mvandenbosch@state.mt.us> for more information.

Subcommittees to Hold Joint Meeting...The Water Policy Subcommittee and Land Use/Environmental Trends Subcommittee will hold a joint meeting on Friday, May 5, from 2 p.m. to 5 p.m. in the Director's Conference Room of the Department of Environmental Quality in Helena. Two interactive panel discussions will be held. The first panel of state and federal officials will discuss the availability of information on and evaluate trends in Montana's water quality. The second panel of natural resource agency directors and managers will discuss the use of environmental condition information and environmental trends in guiding state policies and agency efforts. The public is encouraged to attend.

For more information about this joint meeting, contact Mary Vandenbosch at 444-5367 or by e-mail at <mvandenbosch@state.mt.us> or Larry Mitchell,

444-1352 or <lamitchell@state.mt.us>.

Montana Environmental Policy Act (MEPA ) Study...The EQC's MEPA Subcommittee held its seventh meeting of the interim on April 14 in Helena. At that meeting the Subcommittee reviewed information on the time it takes to implement the MEPA, and it received a report from the Montana Consensus Council on the MEPA public participation process. The Subcommittee then began the process of synthesizing study information presented to date into draft findings/conclusions and recommendations.

The Subcommittee will meet again at 1 p.m. on Thursday, May 4 in the Director's Conference Room of the Department of Environmental Quality in Helena. This meeting will be another working session for the Subcommittee as it attempts to complete its work on initial draft findings/conclusions and recommendations. The public is welcome to attend and participate. This meeting may last into the evening.

For more information contact Todd Everts at 444-3747 or by e-mail at <teverts@state.mt.us> or Larry Mitchell at 444-1352 or by e-mail at <lamitchell@state.mt.us>.

Eminent Domain...The EQC Eminent Domain Subcommittee held its meeting in Helena on Wednesday, April 12 at the Federal Building. The meeting was well attended. This was a work meeting for the Subcommittee that included the development of findings and draft recommendations for presentation to the full EQC. The final recommendations will be determined by the Subcommittee following a public comment period. Once the final recommendations are developed, these will be presented to the EQC for review.

If you are interested in reviewing the Subcommittee discussion, please visit the EQC website for a copy of the draft meeting minutes. If you are interested in viewing a copy of the draft of the final report, it will be posted to the EQC website on June 1, 2000.

The next meeting of the EQC Eminent Domain Subcommittee will be held on May 4 in Helena. The meeting will start at 1 p.m. in Room B7 of the Federal Building, 301 South Park Avenue, Helena.

To view the minutes from previous meetings, the Subcommittee's work plan, or the draft of the final report, please visit the EQC website at: <http://leg.state.mt.us/Services/lepo/index.htm>. If you have questions or would like additional information please contact Krista Lee at 444-3957 or by e-mail at <klee@state.mt.us>.

## LAW, JUSTICE, AND INDIAN AFFAIRS COMMITTEE

Committee Travels to Blackfeet Reservation...Through horizontally-falling snow, the members of the Law, Justice, and Indian Affairs Committee (LJIAC) traveled to Browning on the Blackfeet Indian Reservation for their fifth meeting of the 1999-2000 interim on April 13. Fortunately for the Committee, inclement weather

is a regular occurrence along Montana's northern tier, and the LJIAC's Blackfeet hosts were nonplused as they escorted the Committee around Browning and its environs. The day proved to be an eye-opener for many of the Committee members who were relatively new to the Indian affairs arena.

In 1994, the legislative Committee on Indian Affairs began a tradition of traveling to Montana's Indian reservations to meet on-site with tribal officials and tribal members. The Committee traveled to Fort Belknap Reservation in 1994, Crow and Fort Peck Reservations in 1995 and 1996, and Northern Cheyenne Reservation in 1997. The LJIAC recognized the value of those visits and heartily agreed to continue the tradition with a trip to the Blackfeet Reservation.

Blackfeet Tribal Business Council Secretary and former state Representative George Heavy Runner was instrumental, along with LJIAC's Vice-chair Carol Juneau, in planning the Committee's agenda and in arranging the day's events. Secretary Heavy Runner and several of the tribe's staff accompanied the Committee members on a bus tour that began by heading west of town along Kiowa Camp Road. Unfortunately, low-lying clouds and snow kept the awesome mountains for which the region is famous hidden from view all day. Secretary Heavy Runner told the Committee that the Kiowa Camp Road corridor is the subject of the preliminary stages of an Environmental Impact Study (EIS) being conducted by the Montana Department of Transportation (MDT). MDT is planning to widen the road, which is used by tourists to access the mountains and, less often, by locals to reach outlying housing developments and communities. While widening the road may make it safer for travel, tribal members are concerned about the effects that project will have on wetlands and other sensitive environmental features. Secretary Heavy Runner stressed that being kept in the loop and consulted as the EIS progresses is of upmost importance to the Tribe.

While the bus skirted the enshrouded mountains that make up the eastern edge of Glacier Park, Secretary Heavy Runner remarked that grizzly bears have been wandering onto the Blackfeet Reservation in increasing numbers. He noted that the Tribe would be interested in developing its own grizzly bear management plan in the interest of protecting tribal members who live in outlying areas and are vulnerable to grizzly encounters.

The bus took Committee members through several housing projects that lie outside the Browning city limits and stopped at the juvenile detention center where members received a tour of the facility and learned of its holding capacity, the offenses that most juveniles are charged with (breaking curfew and minor-in-possession), and the director's plans for improving the physical structure. The end of the bus tour found the Committee at Blackfeet Community College where an impressive construction project is nearing completion. Members toured the building that will house numerous classrooms, a student center, a bookstore, and a special circular ceremonial room with a fire pit in the center.

The Tribal Business Council provided lunch for the Committee, during which Council members and Committee members discussed numerous items of mutual interest, focusing on opportunities to improve communication and understanding between the state of Montana and the Blackfeet Nation. Secretary Heavy Runner

pointed out several times during the day that complications often arise due to the several overlapping jurisdictional layers that exist in Browning and on Reservation land--city, county, state, tribal, and federal. This jurisdictional morass is not unique to Browning, and it forms the basis for many of the dilemmas facing tribal governments.

During the afternoon session, Committee members heard a presentation on tribal welfare issues from Patty LaPlant of the Glacier County Public Assistance Office. The Committee learned that much of the local employment opportunities are seasonal with May through September seeing the highest rates of employment; welfare cases in Glacier County comprise 15% of all cases in Montana; and in the near future, public assistance caseloads on Blackfeet and Fort Peck Reservations will comprise 1/3 of all cases in Montana. The Committee also received an update on the study of a proposed Commission on Indian Affairs, learning that the Blackfeet had been the only tribe to formally respond to staff's call for comment on the proposal. The Committee was presented with options to consider but expressed reluctance to take any action on the Commission proposal until more tribes had weighed in on the study.

The LJIAC sincerely appreciates the efforts of Secretary Heavy Runner, Representative Juneau, and all of the tribal staff who were available to answer questions and provide the Committee with a glimpse of life on the Blackfeet Reservation. To a member, the LJIAC found Thursday's activities to be invaluable in deepening their understanding of the challenges and opportunities facing the Blackfeet Nation and the State of Montana.

Committee Visits Private Prison...The weather stayed the same, but the Committee dramatically changed gears for Friday's portion of the two-day agenda in Shelby, where members received a tour of Crossroads Correctional Center, Montana's private prison. Warden Jim MacDonald escorted the Committee through the facility and introduced members to the educational, medical, recreational, and security staff. The Committee was provided with the following information about the prison.

Maximum capacity:	500
Current populations:	280 men; 46 women total; 26 women with dependents
Employees:	125; \$2.5 million payroll
Custody level housed:	Minimum; Medium; Close
Educational programs:	Adult Basic Education; GED Preparedness; Communications; Computer Education; Algebra; Life Skills/Pre-release
Treatment programs:	Chemical Dependency; Sex Offender Treatment; Anger Management
Inmate Ethnic Breakdown:	300 White; 51 Native American; 9 Hispanic; 5 Black; 1 Other
Property taxes paid:	\$45,000/month

Of particular interest to the Committee were the ways in which the female inmates had been accommodated since their arrival from New Mexico in December. Corrections Corporation of America's (CCA) contract with the State of Montana requires that a sight and sound barrier exist between the male and female inmates. Crossroads was constructed to be strictly a men's facility, so some design modifications and new security procedures had to be initiated prior to the women's arrival. The women are all located in one unit of the facility. A new wall prevents the male inmates in a nearby unit from seeing or hearing the females and a large white board positioned in the hallway between the women's unit and one of the men's areas prevents any sight of the women as they are passing through the hallway. Any windows that could provide a view of the women have been painted. The male inmates wear red and the females purple, which is how the inmates are identified as the staff operating the facility's controls monitor movement and prevent any encounters between the men and women.

The contract between CCA and the state dated 12/17/99 requires that "academic and vocational programs must be comparable to courses offered at Montana Women's Prison [MWP] in order to provide a continuum of training for transferred inmates." Women have access to counseling services consistent with those offered to inmates at MWP, and CCA is required to provide parenting and life skills training, trauma and abuse counseling, chemical dependency counseling, and recreation and hobby opportunities. CCA staff told the Committee that the female inmates do not have the option of participating in the carpentry vocational education program that is offered to the male inmates because scheduling that activity would present problems in maintaining the required sight and sound barrier. The contract also requires that CCA provide religious programs and activities for the female inmates and "specifically provide for religious programs for Native Americans."

Committee Hears DOC Budget Proposals...Following the tour and lunch provided by CCA, Department of Corrections Director Rick Day briefed the Committee on the Department's Executive Planning Process and the preliminary budget figures that the Department submitted to the Governor. In presenting the approximately \$41 million EPP, Director Day noted that the Department's highest priority was creating a pay plan for correctional officers. Estimated at nearly \$3 million per year of the 2003 Biennium, this proposal would provide correctional officers market-based pay and "mechanisms to reward demonstrated training and competency levels, situational pay and service." The Departments of Corrections and Administration have determined that Montana's correctional officers receive between \$2 and \$3 an hour less than the entry and market levels that their counterparts in surrounding states receive. Director Day told the Committee that low pay has resulted in difficulties recruiting and retaining correctional officers for all of the units of the state's correctional system.

Other proposals in the EPP included (but were not limited to) continued funding for 31 FTE at Montana State Prison; continued funding for 28 FTE for Probation and Parole staff; an increase in operating costs at Pine Hills in anticipation of increasing capacity; an operating and FTE adjustment at MWP in anticipation of the completion

of MWP facility expansion, scheduled for December 2002; a funding base for existing pre-release centers and funding for a new pre-release center in Helena; funding to address potential Hepatitis C outbreaks; expansion of the industries programs at regional jails, private prisons, and MWP; and funding for projected staff overtime.

Committee Changes Meeting Schedule...At the conclusion of the meeting, the LJIAC discussed its schedule for the next several months. Committee members decided to cancel the meeting that had been scheduled for June 1-2, instead meeting at least once during May's Special Session to deal with some of the items remaining on the Committee's work plan. The Committee may decide to divide into working groups to meet during the summer months and tackle some of the work that remains on the SJR 14 sentencing study and to make some decisions on the Commission on Indian Affairs study. The Committee's final meeting of the interim remains scheduled for August 24-25. An update on the SJR 14 study as well as a report prepared for LJIAC on the Commission on Indian Affairs study have been placed on LJIAC's web page located at [http://leg.state.mt.us/Interim\\_Committees/LAW JUSTICE/index.htm](http://leg.state.mt.us/Interim_Committees/LAW JUSTICE/index.htm). Information about the Committee's meeting during the special session will also be posted at this location. For more information about the Committee, visit the web page or contact Leanne Kurtz at 444-3064.

## LEGISLATIVE AUDIT COMMITTEE

Committee Meets in March...The Legislative Audit Committee met March 30 in the Board of Investments Conference Room. The following reports were presented.

### FINANCIAL-COMPLIANCE AUDITS:

#### Montana State Library Commission (99-21)

This financial-compliance audit report contains the results of the audit of the Montana State Library Commission (Library) for the two fiscal years ending June 30, 1999. The report contains one recommendation related to processing payroll on the Statewide Accounting, Budgeting, and Human Resource System. An unqualified opinion was issued on the financial schedules contained in the report. This means the reader may rely on the financial information presented and the supporting data on the Statewide Budgeting and Accounting System.

#### Montana Arts Council (99-22)

A financial-compliance audit of the Montana Arts Council was performed for fiscal years ending June 30, 1998, and June 30, 1999. This report contains six recommendations to the Council relating to federal cash management, monitoring recipients of federal funds, completeness of the schedule of expenditures of federal

awards, cash balances in shared accounting entities, classification of federal indirect cost recoveries, and expenditure accruals. A qualified opinion was issued on the financial schedules presented in this report because the Council did not process a cash balance closing entry at fiscal year-end 1998 or 1999. The qualified opinion means the reader should use caution when relying on the presented financial and supporting detailed information related to the Special Revenue Fund ending fund balance at June 30, 1998, and June 30, 1999.

#### Department of Commerce (99-15)

This audit report is the result of a financial-compliance audit of the Department of Commerce for the two fiscal years ending June 30, 1999. A qualified opinion was issued on the financial schedules contained in this report. This means the reader should use caution when relying on the presented financial information and the supporting data on the Statewide Budgeting and Accounting System. The previous audit report contained five recommendations. The Department implemented two and partially implemented three recommendations. The three recommendations partially implemented relate to fees commensurate with costs at the Professional and Occupational Licensing Boards, Board of Pharmacy Educational Programs, and reports on bank examinations.

#### Department of Justice (99-17)

This report documents the results of a financial-compliance audit of the Department of Justice for the two fiscal years ending June 30, 1999. A qualified opinion was issued on the financial schedules contained in this report. The opinion was qualified because the Department recorded the initial ARCO settlement as property held in trust instead of settlement revenue. Revenue is understated by \$15 million on the financial schedules for fiscal year 1997-98. The reader should use caution when relying on the presented financial information and the supporting data on the Statewide Budgeting and Accounting System for the Natural Resource Damage Litigation Program.

The previous audit report contained four recommendations. The Department has implemented three and partially implemented one recommendation. This report contains three recommendations to the Department concerning lack of controls in motor vehicle records, timely deposits, and amending or repealing state laws related to the D.A.R.E. Program and the crime victims compensation funding. There are also disclosure issues related to fees commensurate with costs in the Department's Internal Service Funds and the increasing fund balance in the Highway Patrol retirement account.

#### Department of Public Health and Human Services (99-13)

A financial-compliance audit of the Department of Public Health and Human Services (PHHS) was performed for the two fiscal years ending June 30, 1999. This is the second audit of the Department. The report determined the status of audit recommendations made to PHHS in the previous audit. Of the 24 applicable recommendations, PHHS implemented 12, partially implemented 7, and did not

implement 5. A qualified opinion was issued on the financial schedules for each of the two years under audit. The opinion discusses misstatements exceeding \$159 million. PHHS's policy to record revenues and expenditures in its Child Support Enforcement agency fund accounts for \$153.9 million of the misstatements. The reader should use caution when analyzing the presented financial information and the supporting data on the Statewide Budgeting and Accounting System. This audit report contains 23 recommendations to PHHS. The issues discussed in this report include noncompliance with federal regulations concerning allowable costs, reporting, subrecipient monitoring, and cash management. Issues include discussion of various accounting errors and incomplete or nonexistent reconciliations between PHHS's primary accounting records, its subsystems, e.g. Child and Adult Protective Services (CAPS), and its federal reports.

These issues could have been prevented, or detected and corrected in a timely manner, if PHHS had an efficient and effective control structure in place. In general, a control structure is a process designed to provide management with reasonable assurance it will achieve its objectives related to financial accountability and compliance with laws and regulations. The five components of a control structure are control environment, management's risk assessment, control activities, information and communication, and monitoring. These components work together to provide assurance an organization operates as management intends: the right people are in the right job and know how their individual responsibilities contribute to organizational objectives; management identifies its risks and takes steps to manage them; management implements policies and procedures to ensure its directives are carried out; management and its staff understand the organization's information processes and how people's roles and responsibilities interact; and management assesses the quality of its control structure over time.

#### Department of Agriculture (99-19)

This report contains the results of a financial-compliance audit of the Department of Agriculture (Department) for the two fiscal years ending June 30, 1999. This report includes one recommendation to the Department related to Noxious Weed Management Trust Fund accounting errors. An unqualified opinion was issued on the financial schedules presented in this report. This means the reader can rely on the presented financial information and the supporting detailed information on the Statewide Budgeting and Accounting System (SBAS).

#### Department of Livestock (99-20)

This audit report documents the results of a financial-compliance audit of the Department of Livestock (Department) for the two fiscal years ending June 30, 1999. This report contains seven recommendations where the Department could improve management controls and enhance compliance with state policies and laws. The first two recommendations relate to the Brands Enforcement Division and discuss the accuracy of data on the brands inspection system, timeliness of deposits, and timeliness of remittance of inspections. The third and fourth recommendations relate to compliance with state laws and policies covering travel

and establishing fees in the Administrative Rules of Montana. The next two recommendations relate to recording financial activity in accordance with state accounting policy. The final recommendation discusses the accuracy of federal program information submitted to the Governor's Office. An unqualified opinion was issued on the financial schedules contained in the report. This means the reader may rely on the presented financial information and the supporting data on the Statewide Budgeting and Accounting System.

#### Montana State University-All Campuses (99-10)

This financial-compliance audit report contains the results of an audit of the Montana State University campuses for the two fiscal years ending June 30, 1999. The report contains 13 recommendations to Montana State University (University), one recommendation to the Commissioner of Higher Education, one recommendation to the Board of Regents, and one recommendation for joint action by the Department of Administration, the Commissioner of Higher Education, and the University. Unqualified opinions were issued on the financial statements for Montana State University-Bozeman, Montana State University-Billings, and Montana State University-Northern for fiscal years 1997-98 and 1998-99. This means the reader may rely on the presented financial information.

#### Board of Regents/Commissioner of Higher Education (99-18)

A financial-compliance audit of the Board of Regents and Office of the Commissioner of Higher Education was performed for the two fiscal years ending June 30, 1999. The Office implemented five of the seven recommendations from the prior audit report. This current audit report contains six recommendations. The first section in the report discusses ways in which the Office can improve compliance with federal regulations. There are three recommendations related to management of cash received from the federal government, monitoring entities to which the Office subgrants federal funds, and reviewing lenders who participate in the Federal Family Education Loan program. The second section discusses where the Office can improve compliance with state accounting policy on expenditure reductions, netting and classification of Guaranteed Student Loan Program transactions, and Agency Fund activity. A qualified opinion was issued on the financial schedules contained in the report. This means the reader should use caution when relying on the presented financial information and the supporting data on the Statewide Budgeting and Accounting System.

#### Montana Single Audit Report (99-2)

The Montana Single Audit Report for the two fiscal years ending June 30, 1999, contains five sections:

- (1) FY99 Financial Section;
- (2) FY98 Financial section;
- (3) Auditor's Report & Findings;
- (4) Corrective Action Plan; and
- (5) Summary Schedule of Prior Audit Findings.

The Auditor's Report & Findings section contains all federal issues and recommendations identified since the issuance of the last single audit report. All issues included in this section can be found in the individual audit reports issued for those agencies. This section includes reports required under the federal Single Audit Act amendments of 1996. The FY98 and FY99 financial sections contain the General Purpose Financial Statements, which are included in the state's Comprehensive Annual Financial Reports for those years. The Comprehensive Annual Financial Reports are made available to legislators by the Department of Administration. These sections also include the FY 1997-98 and FY 98-99 Schedules of Federal Financial Assistance for the state of Montana. These schedules are prepared by the Office of Budget & Program Planning and document, by federal program, the over \$1 billion in federal assistance received by the state in FY 1997-98 and again in FY 1998-99.

The Corrective Action Plan section contains the agency responses to the recommendations in this report. The Summary Schedule of Prior Audit Findings section documents the implementation status of report recommendations from the last Single Audit Report.

## PERFORMANCE AUDITS:

### Wildlife Division, Department of Fish, Wildlife & Parks (Performance 98P-11)

Performance audit work at the Wildlife Division within the Department of Fish, Wildlife and Parks focused on whether the Department actively manages Montana's wildlife and habitat. Recommendations were made for improvements in accountability, including:

- ▶ properly documenting wildlife management decisions;
- ▶ completing and updating management plans for managed species;
- ▶ developing a formal process for selecting Habitat Montana projects;
- ▶ implementing a system for evaluating habitat projects;
- ▶ establishing policies to clarify public access requirements in habitat contracts; and
- ▶ emphasizing coordination between wildlife and habitat management.

### Inmate Medical Services, Department of Corrections (98P-10)

The Department of Corrections is responsible for providing health care to adult and juvenile offenders incarcerated in Department facilities and programs. Health care includes medical, dental, vision, and mental health services. The Department is also responsible for ensuring Montana inmates housed in private prisons and other contracted beds receive adequate health care services. The performance audit concentrated on the Department's role in administering inmate health care.

The Department spent about \$9.6 million providing health care to inmates in Fiscal Year 1999. Additional oversight and monitoring is needed by the Department to better control the cost of health care and to ensure an adequate level of health care services are provided. Nine audit recommendations were made to improve

medical care program operations.

Both the expansion of the correctional system and legal challenges regarding adequacy of health care provided inmates are factors which make management of the correctional health care system challenging. Implementation of the audit recommendations should improve the Department's administration of inmate health care.

#### State and Federal Surplus Property Program, Department of Administration (Limited Scope Performance 98P-06)

This report describes the state and federal surplus property process used in Montana. The state program provides a process for state agencies to dispose of surplus equipment and material. The audit concludes that the Department of Administration meets the statutory intent of the state surplus property program. Most state surplus property is nearing the end of its remaining useful life and that most of this property is purchased by the public. The federal surplus program is designed to assure an equitable distribution of available federal property to qualifying entities. The Department is also meeting the intent of the federal surplus property program. Most surplus federal property still has remaining useful life and is purchased by local governments. Both programs are to be self-supporting. The procedures followed by the Department provide for adequate controls to meet this requirement. Three recommendations were made to the Department:

- ▶ revise administrative rules to allow agencies more flexibility in directly disposing of low and no value surplus property;
- ▶ clarify delegation authority to provide agencies with procedures for deposit of surplus property sales revenue; and
- ▶ increase surplus property program awareness.

#### **PERFORMANCE FOLLOW-UP AUDITS:**

##### Department of Public Health & Human Services: Medicaid In-Home Services Program (orig. 98P-01)

The Department of Health and Human Services implemented the majority of the recommendations. The Department is awaiting further information currently being gathered by the federal Health Care Finance Administration on the feasibility of implementing 15 minute billing increments for in-home services. The Department has developed a new provider manual for the home health program. It has developed policies and procedures outlining written plan of care requirements. The staff negotiated a contract with a private company to conduct yearly reviews of home health providers. Staff also implemented a provider education program. The Department drafted a policy on alternative methods of delivering medications to recipients. The Department also transferred a portion of the home health appropriation to the Developmentally Disabled Program to allow implementation of a chronic nursing care program. The compliance review process was reviewed to insure consistency.

Medicaid Clinical Laboratory Service Payments (orig. 97P-02)

A follow-up audit was performed on a November 1997 report on Medicaid clinical laboratory service payments. The report made six recommendations to the Department of Public Health and Human Services. Most of the recommendations are partially implemented. Several of the recommendations stated that the Department should correct underpayments made to providers, recover overpayments, and return the federal portion of the overpayments to providers. The Department implemented the recommendation to develop controls for payment methodologies related to clinical laboratory service payments. The Department has not collected underpayments to providers, collected overpayments, or reimbursed the federal portion. While the Health Care Finance Administration (HCFA) is not currently assessing interest, the possibility exists that if the Department continues to delay repayment, HCFA will assess the Department interest on the overpayments.

Vocational Rehabilitation Program (orig. 96P-04)

Follow-up work was conducted on the 1997 performance audit on the Vocational Rehabilitation Program. Due to changes in the federal Rehabilitation Act, the follow-up was not completed until February 2000. The report made 15 recommendations to the Department of Public Health and Human Services. Most of the recommendations are being implemented. A new software package will allow program management to analyze encumbrances and expenditures by client, type of service and/or vendor, region, statewide, etc. Management received initial training on how to create needed management reports from the system. Benchmarks will be developed to assess program success. The Department provided training to staff and upgraded supervisory reviews. Department policy was also rewritten in several areas. The Department developed a new audit approach to determine fee limits.

**INFORMATION SYSTEM AUDITS:**Montana State University Banner2000 Systems (Information System OODP-04)

This report provides information regarding the Information System Audit of application and security controls relating to Montana State University-Bozeman's Banner2000 System. The report contains seven recommendations for improving access security and Banner application controls and one disclosure issue addressing the human resource leave balance conversion.

Housing Authority Payment Plan Yearly System, Department of Commerce,  
Section 8 Housing (OODP-05) (memo report)

This memorandum provides information regarding the Information System Audit of the Housing Authority Payment Plan Yearly System (HAPPY), administered by the Housing Division of the Department of Commerce. Based on testing, the audit determined that input, processing, output, and access controls are reasonable and effective to ensure data processed on HAPPY is complete and accurate. Concerns deemed not to have a significant effect on the successful operations of the Section

8 program are not specifically addressed in the report and have been discussed with Department management.

#### Hail Insurance Program (OODP-06) (memo report)

This memorandum provides information regarding the Information System Audit of the State Hail Insurance Program, administered by the Department of Agriculture. Based on testing performed, controls were found to be effective over the Hail Insurance Program regarding input, processing, output, and system security. Concerns deemed not to have a significant effect on the successful operations of the State Hail Insurance Program are not specifically addressed in the report and have been discussed with Department management.

To Meet in June...The next Legislative Audit Committee meeting is tentatively scheduled for June 8.

## **REVENUE AND TAXATION COMMITTEE**

Revenue and Taxation Committee Meets in April...The Revenue and Taxation Committee met April 13 and 14. The first day was devoted primarily to transportation issues while the second day to revenue issues.

Financial Status of the General Fund ...Terry Johnson, Principal Fiscal Analyst, Legislative Fiscal Division, reviewed the status of the general fund account. The report was a reprise of information presented to the Legislative Finance Committee in March (for prior coverage, see *THE INTERIM*, April 2000). The status of the general fund will be significant during the May special session. The Legislature will consider general fund appropriations for economic development programs as well as various tax reduction proposals. Of particular interest to the Committee was the larger than expected increase in wage and salary income and capital gains income and the unexpected increases in oil and palladium prices. Johnson noted that the 1999 Legislature anticipated that the ending fund balance would be \$51.5 million at the end of the 2001 biennium. Revised estimates put the general fund balance at about \$138 million. The \$86 million difference would be the excess balance of what was projected.

Committee Requests Speed Limit Bill Draft...In 1999 the Montana Legislature enacted SB 133 to impose speed limits on the interstate and other public highways. The concern has been raised that the 70 mile-per-hour speed limit on certain secondary roads may be too fast for road conditions. Tim Reardon, chief legal counsel for the Department of Transportation, at the request of the Committee, presented a bill draft that would incorporate statutorily the elements of a resolution adopted by the Montana Transportation Commission. The Department would be authorized to conduct a preliminary examination of a road and to recommend to local officials an interim speed limit prior to a full engineering study. If local officials

do not agree with the preliminary recommendation, the speed limit is the posted limit as of May 28, 1999, until the engineering study is completed. The final recommendation would be approved by the Transportation Commission. Following a discussion of some of the issues, the Committee formally requested a bill draft for possible introduction during the next legislative session.

Committee Requests Bill Draft to Clarify Provisions of HB 540... The Legislature referred HB 540 to the electorate. If approved by the voters, HB 540 would replace the existing ad valorem tax on light vehicles with registration fees based on the age of the vehicle. At the last meeting of the Committee, a question was raised about a provision regarding the deposit of "all registration fees" to the highway state special revenue account from vehicles registered for the first time in Montana. The deposit of these fees into the highway special revenue account would replace the motor vehicle sales tax revenue if HB 540 is approved by the electorate. Committee staff offered the opinion that "all registration fees" would include other registration fees in addition to the new registration fees based on the age of the light vehicle. At the April 13 meeting, Committee staff said that other areas of the bill may require "clarification" as well. These areas would include:

- ▶ the payment of a portion of other registration fees to the pension trust fund for supplemental pension benefits for highway patrol retirees; and
- ▶ the requirement that new number plates be issued every four years and the effect on vehicles registered for more than a 12-month period in which the registration period overlaps the 4-year cycle.

An issue was also raised of whether registration fees from used vehicles registered for the first time in Montana were intended to be deposited into the highway account. Dave Galt, Administrator, Department of Transportation, told the Committee that revenue-neutrality would be achieved if first-time registration fees for new light vehicles and new heavy trucks were deposited to the account. Not including registration fees for used vehicles would have a positive impact on revenue going to local governments. The Committee requested that a bill draft be prepared to clarify the provisions of HB 540. Any clarification would be administrative in nature and would not adversely affect owners of motor vehicles.

Cadastral Mapping Project... Jeff Miller, Administrator, Department of Revenue and Craig Bacino, Digital Mapping Program, Department of Administration, discussed a public-private project to improve and standardize cadastral mapping in Montana. The project will assist the Department of Revenue in its property valuation and reappraisal responsibilities. The mapping system can also be used to verify property sales, establish neighborhood boundaries, assist emergency services, and manage growth. Information about the system and the data currently available may be found at [www.gis.doa.state.mt.us](http://www.gis.doa.state.mt.us). Confidential information may not be disclosed on the system.

Other Issues and Topics... The Committee discussed a variety of other issues

and topics during the 2-day meeting, including:

- ▶ the implementation of HB 128 that revises the taxation of telecommunication services;
- ▶ the contribution of transportation projects to the Montana economy;
- ▶ a report on discussions between the Department of Transportation and the Montana Contractors Association to revise rules for suspending or debarring a contractor;
- ▶ a Committee bill draft request to allow a taxpayer to claim an individual income tax credit against taxes paid by an out-of-state S corporation;
- ▶ the status of tax credits for donations to qualified endowments;
- ▶ an industry perspective on the effects of revised taxation of oil and natural gas production enacted during the last legislative session; and
- ▶ issues related to tax increment finance districts.

Debt Limit Subcommittee Reviews Impacts... The Debt Limit Subcommittee met April 12 to review the impact of using market value, rather than taxable value, as the basis for establishing debt limits for local governments. Counties and cities and towns are variously affected by a "debt-neutral" debt limit rate depending on the type of property located in the jurisdiction. For example, most oil and natural gas producing counties would lose bonding capacity because of the add-back of the gross value of production to taxable value under existing law. Other counties and cities and towns would lose bonding capacity under a debt-neutral scheme because of higher concentrations of property subject to higher tax rates (e.g., class nine centrally assessed property). In order to minimize the negative impact of adopting a single percentage of market value that would apply to counties or to cities and towns, the Subcommittee is going to examine percentages based on "brackets" of market value in a similar manner that counties are classified according to taxable value. In addition, the Subcommittee is going to look at establishing a floor for debt limits and a provision that would allow a jurisdiction to exceed its statutory limits with approval by a super-majority of voters.

Committee to Meet June... The Committee will meet Thursday, June 29. Details of the next meeting will be available in the June issue of **THE INTERIM**.

For additional details about Committee activities contact Jeff Martin by calling (406) 444-3064 or by e-mail at <jmartin@state.mt.us>.

## PUBLIC INFORMATION SUBCOMMITTEE

Study Gaining Momentum... The Public Information Subcommittee's study of the feasibility of televising the Legislature and other state government activities is gaining momentum. The meeting in Helena on March 30 elicited helpful comments and insights from representatives of AT&T Cable Services, U.S. West, Streaming Solutions, the Montana Advanced Information Network, the Montana Telecommunications Association, and Montana Public Television. The focus was

on program transmission and distribution options, and it appears entirely feasible to deliver a digital signal from a closed circuit cable system in the state Capitol Building to various audience groups, including public sector employees and rural and urban residents, by means of fiber optics, cable systems, satellite television, over-the-air broadcast, and over the Internet.

The pressing question now is one of delivery costs, and the Subcommittee is looking closely at various estimates that correspond with alternative approaches to interlinking technologies, various arrays of production equipment, and different scales of operation, ranging from bare minimum audio feeds to complete gavel-to-gavel coverage on television.

To Meet in Bozeman... The next meeting is scheduled for Wednesday, May 3, at the studio of KUSM on the Montana State University campus in Bozeman. [Note: This is a change in date. The meeting was previously scheduled for April 28.] The Subcommittee will discuss a preliminary plan to implement the gavel-to-gavel operation in phases. In addition, the group will revisit the prospective role of Montana Public Television (the state's PBS affiliate) and gather input from representatives of the Community Access stations in Missoula, Billings, Great Falls, Helena, and Kalispell. MSU faculty and students are invited to attend the meeting, and provide comments regarding their potential interest in both producing and receiving the civic programming emanating from the State Capital.

The group's work plan outline, schedule, and the March Progress Report are accessible to Internet users at the Legislative Council's home page, located at <http://leg.state.mt.us/Services/LegCouncil.htm>. Paper or electronic copies of these same documents, as well as forthcoming reports, are also available on request from Research Analyst Stephen Maly. Call 444-3064 or send an e-mail to <smaly@state.mt.us>.

## TRANSITION ADVISORY COMMITTEE

Committee Discusses MPC Sale... The Transition Advisory Committee (TAC) met at Montana State University - Billings on April 20. The members listened first to a presentation by Jack Haffey, a Montana Power Company (MPC) Vice President, who explained the company's plans to reorganize its corporate structure and sell off all of its natural gas and electricity transmission and distribution assets in the state. Mr. Haffey asserted that the Public Service Commission (PSC) has sufficient authority to ensure that the purchaser(s) of MPC will provide safe, reliable, and uninterrupted service; he was adamant that the PSC has no legitimate right or cause to require MPC to share any proceeds of the divestiture with gas or electric customers. Mr. Haffey also urged the TAC's legislative members not to take any action that would propel the issue of PSC jurisdiction into the special legislative session, which begins May 8.

Contrary views were expressed by TAC members Bob Anderson, a PSC Commissioner, and Don Quander, who represents 12 large industrial consumers of

electricity in Montana. Anderson and Quander urged the legislative members to get the MPC sale included in the Special Session in order to clarify the Commission's jurisdiction. Anderson said the Commission believes it has statutory authority to review the proposed transaction, insofar as its effects on energy services and rates are concerned, but he described several scenarios in which the Commission's scope of review would be challenged in court. Clarifying the PSC's jurisdiction would at least reduce if not eliminate the specter of litigation over the Commission's decisionmaking process, irrespective of the outcome of those decisions. Quander presented a brief paper outlining the reasons why a regulated utility like Montana Power is not like any other type of business, that utility customers, as ratepayers, share a portion of the investment risk with MPC's shareholders, and that the disposition of above-book value proceeds from the divestiture do come within the purview of the PSC.

After extensive questioning and discussion, the TAC's legislative members passed a motion requesting staff to prepare an information packet for the Legislature as a whole that will include a brief compendium of pro and con positions on the issue of clarifying PSC jurisdiction in the special session. Other potential statutory changes, including an end to the prohibition on the Montana Electricity Buying Cooperative owning any poles and wires, were excluded from the packet's contents.

Committee Hears Presentation on RTOs...The April 20 agenda also included another important matter pertaining to the restructuring of wholesale energy markets in the Pacific Northwest. Peggy Olds from the Bonneville Power Administration and Bill Pascoe from MPC made a joint presentation on the purpose, guiding principles, and practical requirements of a Regional Transmission Organization (RTO) to coordinate high voltage power transmission in the Northwest. Under the direction of the Federal Energy Regulatory Commission (FERC), public and private utilities are mandated to form regional control entities to assure reliable interchanges and nondiscriminatory access to transmission systems. The proposed RTO in the Northwest would include the geographic territory served by 8 investor-owned utilities (IOUs), including Montana Power, and the federally-owned BPA. The RTO would be a non-profit corporation, governed by a board of directors, and receiving input from an advisory board made up of IOU and public utility representatives. The exact process for establishing the RTO board, and the details of its subsequent governance procedures, have yet to be ironed out, but among the principles supported so far by the participating entities are the following.

- ▶ The RTO shall maintain and enhance the reliability of the transmission network under its control.
- ▶ The RTO shall provide sustainable customer benefits.
- ▶ The RTO shall facilitate and promote open bulk power/wholesale markets.
- ▶ The RTO shall be designed so as to accommodate the maximum variety of transmission ownership structures, including independent transmission companies. (No transmission owner shall be required to divest its transmission assets).

- ▶ The RTO proposal shall accommodate the requirements for retail access as ordered at the state level.
- ▶ The transmission owners shall assure public involvement in the process for creating the RTO.

FERC has set a deadline of October 15 for filing RTO proposals. As a practical matter, the negotiations preceding this formal procedure will have to be concluded in September.

Several questions were raised about the technical difficulties as well as the political and financial challenges inherent in forming a non-profit organization that would control hugely complicated and valuable assets that it does not own. The RTO proposal will be revisited at future TAC meetings.

Committee Hears Update on River Governance...The Committee received an update on the work of the Legislative Council on River Governance (LCRG), an as-yet informal organization consisting of delegations of legislators from Washington, Oregon, Idaho, and Montana, which has met 5 times, most recently in Whitefish on April 14-16. The LCRG is concerned about the future of the Bonneville Power Administration, the RTO, and the methods and costs associated with fish recovery in the Columbia River system. The Council's members have taken issue with a number of federal agencies and their respective decisions on "river governance", and also have perspectives that contrast with those of the governors in the four Columbia Basin states. The Council's next meeting is scheduled to take place in late August in Washington state.

To Meet in June...The next TAC meeting will be in Helena on June 23, hopefully in the newly-restored State Capitol. For further information about the proceedings of the April 20 meeting, or the agenda for the June meeting, please contact Research Analyst Stephen Maly at (406) 444-3064 or send an e-mail message to <[smaly@state.mt.us](mailto:smaly@state.mt.us)>. Internet users are invited to visit the TAC web page at [http://leg.state.us/Interim\\_Committees/TAC](http://leg.state.us/Interim_Committees/TAC).

## **EDUCATION AND LOCAL GOVERNMENT COMMITTEE**

May Meeting Cancelled...The May 11-12 meeting of the Education and Local Government Committee has been cancelled due to the special legislative session. The next meeting of the Committee will be held on June 22-23 in Room 172 of the newly-renovated Capitol Building.

For further information, please contact Connie Erickson, Legislative Services Division, at 444-3064 or by e-mail at <[cerickson@state.mt.us](mailto:cerickson@state.mt.us)>. You may also visit the Committee's website, accessible through the Legislative Branch web page at [leg.state.mt.us](http://leg.state.mt.us). (From that location, click on "Committees". Then, from the list of interim committees, click on "Education and Local Government".)

Subcommittee to Meet...The Postsecondary Education Policy and Budget Subcommittee will meet on Tuesday, May 9 in Room C209 of the Cogswell Building. Please use the Broadway Avenue entrance.

For further information, please contact Sandy Whitney, Legislative Fiscal Division, at 444-2986.

## **PLUS FIVE AND BECAUSE YOU COUNT: CENSUS 2000**

Census Work Continues...Census day has come and gone but census enumerators will be following up on missing forms and completing census activities. If you have not received a census form or had a census enumerator visit your home, please contact 1-800-471-9424 and you will receive instructions on how to be counted! The census data for the purposes of congressional reapportionment will be delivered to the President on December 31, 2000, and for the purposes of congressional and legislative redistricting on March 31, 2001.

As of April 19, 2000, Montana's initial response rate was 66% for mail returns of census forms. If you want to keep updated, go to this URL: <http://rates.census.gov/cgi-bin/Intro>.

## THE BACK PAGE

### MAKING CONNECTIONS AT AN INTERIM STUDY SUBCOMMITTEE DOT.COM

By Stephen B. Maly, Research Analyst  
Legislative Services Division

#### INTRODUCTION

In the course of studying the feasibility of televising the Legislature, we (that is, the four members of the Legislative Council's Public Information Subcommittee and me, and I can speak for all of them) are learning a lot about connectivity, and the lack thereof, and how certain principles apply as much to the enormous challenges of economic development as they do in a much smaller endeavor to launch a statewide public affairs television channel. It's a hip-bone, thigh-bone kind of thing; to reach the far flung appendages of the state from the bosom of the State Capitol, similar contortions of tendon and ligament have to be made whether one is talking about television signals or economic initiatives that are tied into the so-called New Economy of E-Commerce.

Having stretched things already, I'll stretch them even further: The Subcommittee's study tour has brought us to the very lip of the so-called "digital divide", as well as to the interface of television and computer technology. Honestly, I may be alone at this moment in seeing seemingly disparate developments as interconnected, but I'll try to make a brief case for the double jointedness of our endeavor, with the hope that what follows will at least provoke some additional thinking along these lines.

#### TECHNOLINGUISTICS

First things first: Like so many other arenas of public policy, telecommunications is riddled with jargon. Without some familiarity with basic terminology, one is quickly left groping in the dark, tripping over acronyms. The immediate irony is rich--the subject is, after all, communication--but the need to grasp the meaning of bandwidth, digital, wireless, T-1, DSL, PoP, and other such road signs on the so-called information superhighway is inescapable. For example, it's important to keep in mind than discussions about fiber in this context are really about thin strands of laser-lit glass, not oat bran; similarly, "streaming video" is an Internet phenomenon, not something you can rent at Blockbuster.

Here are just a few salient terms, including one I made up myself (you'll know it when you see it), which are quickly becoming commonplace in the Subcommittee's

ongoing dialogue with technical wizards in the public and private sectors.

Bandwidth - A measure of the amount of data than can pass through a transmission medium (like a wire, a cable, or an invisible beam) at predictable, consistent speeds. For example, the bandwidth of a T-1 digital communications line will facilitate line data transfer rates of up to 1.544 million bits per second. This is fast. Most homes have 56.6 thousand bits per second bandwidth available to them over a copper telephone wire. Cable, and cable modems, carry more bandwidth, and fiber tons more than that.

Broadband - Broadband is a lot of bandwidth; it allows interactive, real-time audio and video, plus extensive graphics to be delivered to desktop computers up to 100 times faster than dial-up modems. Broadband is crucial to big business, and increasingly vital for small and medium-sized business. In addition, small towns see broadband access as a necessary tool for attracting new business and retaining old ones.

Digital TV - Images and sounds are captured and transmitted using the digital code in computers, as zeroes and ones. Digital transmission can quadruple program options, increase interactivity; it produces higher audio and picture quality. Digital compression allows 4 to 6 TV channels to be transmitted simultaneously where a single channel exists now. This is called multicasting, and in the Internet environment, multicasting allows one to go back and forth between, say, a Senate hearing on transportation and a House hearing on taxes by merely clicking a mouse. The transition to digital has been compared to the change from black and white to color TV a generation ago.

DSL - A Digital Service Line provides a direct connection between a household or a business and an Internet source at 1.544 million bits per second; it's a way of acquiring high speed access from a telephone company.

Head End - Not at all what you think it might mean, this goofy term denotes the master control facility for a cable TV system.

Internet Streaming - Digital audio and video signals are encoded in Internet Protocol (a language way more useful than Esperanto) and distributed widely. Fortunately, this is not rocket science, and doesn't require a NASA-sized outlay of cash to keep the signal flowing. Idaho, Washington, Wyoming, Minnesota, Texas, and a host of other states are doing it.

TVMT - a statewide public affairs network, funded by legislative appropriations and, perhaps, enhanced underwriting, featuring gavel to gavel coverage of important hearings as well as House and Senate floor sessions, daily and weekly summaries during sessions, Public Service Commission and Land Board meetings, profiles of constitutional, statewide offices, oral arguments before the Montana Supreme

Court, educational documentaries, video tours of historic sites and manufacturing facilities, live broadcasts from state and county fairs, and imported programs from Alberta, Saskatchewan, and British Columbia. It is also worth noting that TVMT is, for the time being, a virtual reality; i.e., a fiction.

### TRANSCENDING A VIRTUAL DIVIDE

In places like Montana, Mongolia, and Mauretania, the so-called Information Superhighway is more like a railroad than an interstate. There simply aren't that many branch lines or accessible crossings (in technical terms, Points of Presence, or PoPs), because supply and demand factors don't warrant their construction. The fiber optic trunk lines that transit Montana are privately owned and privately financed, not the outcome of a national security policy. Some would argue that universal access to high speed bandwidth is fast becoming as important if not more important than 4-lane highways and more plentiful interchanges. Others even argue that the "digital divide" IS in fact a national security issue, given the importance of the Internet and computer literacy to the maintenance of the country's international competitiveness. As Denny Heck, former legislator and now director of Washington state's trendsetting television and Internet public affairs programming service put it to his peers: "If anything, the potential impact on our economy and the way we govern ourselves is being under-hyped. This is clearly the most significant change since the Industrial Revolution and probably the printing press."

The digital divide is the gap (real in many places, perceived in many more) between the technological haves and have nots. In some parts of the country, and across vast swaths of the planet, the divide is a vast and deep chasm. As a recent article in a Congressional Quarterly publication sets forth:

"The Internet may be transforming the world economy into a global village, but millions of villagers in the low-tech, unconnected hinterlands are being left behind. Technology experts say inner cities and large parts of rural America--plus many developing nations--are losing out on jobs, economic development and civic participation as the high-tech train roars by."

A recent Commerce Department study shows that wealthy Americans are 20 times more likely to have Internet access than the poor, and that rural residents and American Indians, as well as single parents, Blacks, and Hispanics, also lag behind in computer ownership and Internet access.

Many elected officials, including candidates in Montana, regard these facts, figures, and trend lines as cause for government action. The disparities above are not entirely unforeseen. For example, the federal Telecommunications Act of 1996 provides subsidies to schools to reduce the cost of getting classrooms on-line, and

Montana has received tens of millions of dollars in benefits since the bill was passed.

In contrast, there are other industry analysts and think tank observers who think Americans need to be patient and let market forces work their magic. A spokesperson for the Information Technology Association of America points out that it took 38 years for 50 million Americans to get access to radios and 13 years for 50 million Americans to buy a television, but only 5 years for the same number to access the Internet. There was never any talk of a "radio divide" or a "television divide". A Cato Institute vice president speaks in even starker terms: "It is sheer scare-mongering to write reports about information haves and have-nots. The reality is a little less exciting: have nows, and have laters."

While the debate about the proper role of government in bridging the digital divide in America wags on, new federal law and enterprising local governments are helping to lay the foundations, directly and indirectly, for better connections between urban and rural communities.

Last year, Congress ended a policy that legally precluded satellite broadcast companies from providing their viewers with local programming, which had up to then been the preserve of local over-the-air broadcasters and cable system operators. To date, satellite TV providers have focused their technical upgrade investments only in the country's largest markets, which leaves over 3 million satellite subscribers without access to local programming. The Senate in March passed the Satellite Loan Guarantee Bill, supported by Montana Senators Baucus and Burns, which offers \$1.25 billion in federal loan guarantees to qualified lenders to entice satellite, cable, and wireless companies to deliver local TV signals to rural areas. The bill also allows the Rural Utilities Service to guarantee the funding requirements for the National Rural Telecommunications Cooperatives (NRTC), a coalition of nearly 900 rural electric and telephone coops, to launch and operate two satellites to handle local television programs. The satellites would provide network service to 150 TV markets, including Montana. In addition, the legislation allows the Rural Utilities Service to issue loan guarantees for the provision of high speed Internet access in rural areas.

A division of Tacoma Power called the Click! Network, has wired the city of Tacoma, Washington with fiber-optic and coaxial cable for television and high-speed Internet access. About 13,000 customers currently subscribe to the municipally-owned network, and hundreds more are on waiting lists. Burlington, Vermont's Electric Department recently received approval to install a state-of-the-art fiber optic and coaxial cable connection for telephone, data, Internet and cable TV service to each business and dwelling in the city. There are other local governments around the country that are building publicly-owned and privately operated telecommunications systems because their constituents are not willing to wait as long as the market may take to respond to their small-scale but nonetheless pressing

demand.

The rationale for these initiatives and incentives is economic necessity. Andrew Michael Cohill, architect and director of Blacksburg, West Virginia's Electronic Village, reputedly the model first-generation wired community in the nation, explained in a recent interview why communities must have direct, high-speed Internet access.

"Small and medium-size communities have to begin investing in public telecommunications infrastructure. If they don't, they will find themselves in exactly the same position as communities in the 50's and 60's that were bypassed by the interstate highways. If you don't have the right amount of bandwidth coming into your community, you're simply not going to be able to participate in the information economy."

## BUILDING OUT FROM BACKBONE

Montana has miles and miles of glass fiber, vast arterial networks of coaxial cable, and countless capillary strands of copper wire. The Treasure State also has the highest per capita distribution of satellite dishes in the country. The purpose of all this telecommunications infrastructure is to connect people; the problem with much of this telecommunications infrastructure is that it is not yet interconnected. The state is not yet a network unto itself (although the state government has one for its own purposes, called SummitNet.) Some pods of TV viewers are served directly by satellite transponders, others indirectly, through the medium of cable. There are 40-odd cable system head ends in the state, operated by 30-something companies, with AT&T Cable Services being far and away the dominant provider. The head ends are not connected to each other.

Meanwhile, Montana citizens are linked to the Internet through phone lines, which, for the moment, aren't quite capable of carrying sufficient bandwidth to convey voice, video, and data without suffering considerable degradation from congestion or interference. U.S. West is offering DSL service in several of the state's larger communities, and several of the independent fiber transmission companies and the small telephone cooperatives in rural Montana are actually ahead of the curve in providing their customers with high-speed connections.

Notwithstanding all this wiring and cabling and satellite downlinking, the absence of connectivity across commercial and technological boundaries limits the potential reach of entrepreneurial initiatives as well as TVMT. This patchwork quilt without the connecting thread is a lot like the so-called Montana economy, which doesn't actually exist. Instead, there are regional economies of varying size, levels of sophistication, and degrees of interdependence that coexist within the jurisdictional boundaries of the state. Some of these economies are linked to national and global

markets, others are strictly local. If anything can connect all this economic activity into a meaningful, measurable whole, it's television, or the Internet, or both.

## THE WAVES OF THE FUTURE

Television is going digital, which means several things. First, the TV sets of the future will function like computers, and some of them will BE computers. In other words, your home computer will also be your television set, and vice-versa; there are already prototypes on the market. Secondly, you will have a lot more channels to choose from. Some of us may cry Enough Already!, but consider this: most Montanans currently have one PBS channel to look at. When Montana Public Television upgrades its system to digital, as it must by May of 2003 under orders from the FCC, we viewers may get to enjoy, during the day, a Kids channel, a Lifelong Learning channel, a best of Public Television channel, and a Public Affairs channel--which may also carry programming from TVMT. At night, you'll be able to watch your favorite PBS stuff--Mystery, Masterpiece Theater, Antiques Roadshow, etc.--in High Definition format, which is reportedly a big wow if you've got a large screen.

The federal government has mandated that all existing television stations, commercial and public, must convert to digital transmission. Every station licensed by the FCC has been assigned an additional channel to begin the conversion. Broadcasters will thus continue to use the analog method, until 2006 (so you don't have to trash your TV set right away), and transmit digital and analog signals simultaneously. Those who don't make the necessary system changes risk losing their license, so there is ample incentive to get with the program. Digital conversion is expensive, and public television stations are looking to state legislatures as well as for federal grants and corporate sponsors to help pay for the necessary infrastructure improvements.

There is a clear possibility that the most potent future force in the market for telecommunications will be invisible. Wireless technologies are coming on stream. You can access the Internet with a cell phone. In Montana, Touch America has deployed two Local Multi-point Distribution Service (LMDS) units, one in Billings and another in Butte. The LMDS base station is where the conversion from fiber to wireless occurs. It's a line-of-sight connection, somewhat like microwave, and it is a means of bridging the distance between the terminus of backbone fiber and the desktop computer/TV in one's home or office. The company plans to install systems in Great Falls, Bozeman, and Kalispell, as well as in several Idaho and Washington communities, by the end of the year.

The logical evolutionary outcome of wireless technology would be something already familiar to viewers of any one of the Star Trek series: the ability to beam a corporeal being's corpuscles and body tissue from one location to another. The

ultimate feat in bandwidth exercises would be to beam Jabba the Hut from wherever in the galaxy his lair is now to anyplace else in the universe, including the next room.

But let's get down to earth. Consider, if you will, a bushel of wheat, or several hundredweight of beef, or a few thousand dekatherms of natural gas. Will there ever be a time and technology that can deliver real commodities across earthly space? Probably not; Montana's disadvantageous geographic positioning will likely remain susceptible to the punishing realities of transportation economics. Meanwhile, however, there are other types of bulk cargo that could be delivered to Montana citizen-consumers at an affordable cost. Take House Bill 2, for example, or any bill in any session with a title that includes the portly phrase, "generally revise". Just think of the streams of rhetoric and accompanying text that could flow from statehouse to households if TV sets and Internet browsers could be tuned into debates over the general revision of insurance codes, property taxes, school finance, eminent domain statutes, local government jurisdiction, water quality standards, worker's comp, license plates, etcetera, etcetera, etcetera.

This might be the right time for a pithy quip from a distant quadrant: Illinois Senate President James "Pate" Philip, when asked what he would say to the idea of televising legislative sessions gavel to gavel on a state cable network, reportedly replied: "I would say, boring, boring, boring." Well har-dee-har-har; I happen to have it on a high authority that "Pate" is a bit of a joke himself, and belies his own critique. As anybody who has ever watched C-Span for more than 10 minutes at a stretch, gavel to gavel coverage of governmental activities CAN be boring, but it can also be highly informative, thought provoking, and ever so real when compared to other forms of television entertainment.

## REBOOTING TRUST IN GOVERNMENT

Studies in a number of states show that people generally don't hold state government in high regard, and it's cold comfort to learn that the federal government fares even more poorly in recent polls. Trust in government has plummeted. Citizen legislators are not popular. There have been a plethora of journal articles and editorials in recent years lamenting the erosion of public confidence in elected bodies. There is a yawning credibility gap, a "crisis of legitimacy". In a summer 1998 issue of Western Legislatures, noted author and scholar of representative democracy Alan Rosenthal asserted that even though state legislators are more responsive, more ethical, and more democratic than in the past, public disenchantment with state legislatures generally is pervasive, owing in part to the gratifying simplicity of direct democracy, in the form of referenda and initiatives, but more importantly to the routine bashing the lawmakers get in the press and media.

Worse yet is a measurable trend toward indifference. "Interest in state government news seems to be about as thin as the air in Denver." This is the view of Wes Akers, a freelance journalist, television producer, and adjunct professor at Northern Kentucky University. Akers recounts the findings of a group called the Committee of Concerned Journalists at a recent conference in Colorado sponsored by the Pew Center for Civic Journalism. The Committee completed a study in October 1999 that determined, among other sad and salient factors, that "newspapers cover a limited amount of news about state government, tend to focus on politics rather than the policy, and tend to explore the impact of events on only a small number of those affected." Dan Sprague, Executive Director of the Council of State Governments, makes a similar observation about the commercial electronic media, emphasizing that local TV stations generally ignore debate in state legislatures. "[I]f television does not broadcast state legislative news, then many citizens stay in the dark about their state governments. As a result, people know little about what state government does and tend to distrust it."

Legislative staff often find themselves in a position to defend the legislative process, and the people inside the process, from outside attack. While public criticism of and skepticism toward the legislature is undoubtedly a healthy thing, cynicism is not, because it often leads to apathy, it spreads like a virus, and it makes for a lot of whining, which is not a healthy sound. Our job is not to contradict the critics, defend individual senators and representatives, or go along with someone's partisan slant on things, but rather to defend the institution of the legislature, and its time-honored traditions of deliberation and compromise. Sometimes this is hard to do; there are situations in any given session or interim wherein the cynics get it right. In all these circumstances, unedited television coverage would help cast light on a more or less objective reality: viewers would see and hear things, at least in committee and during floor debates, much the same way we do. The legislature's day to day activity, and the behavior that partisanship and personal passion elicits in the heat of political debate, would be its own defense.

As a staff member, I have few doubts and a contrasting abundance of hopeful expectation that casting light on the Legislature through gavel-to-gavel coverage would bring a significant number of Montanans into the process, and that turn of events will make citizens and their legislators alike more responsible members of the civic community.

### **LET THE SUNSHINE IN**

A well informed public is a prerequisite to informed decisions and good public policy. This is a cliche, but it's also a truism worth keeping close to mind. In conclusion, it's also worth reiterating what's been said already in the Subcommittee's latest progress.

Legislators recognize the value of C-span style programming as a means of informing their constituents, and as a practical way to cast light on both the process and substance of their deliberations. This is not a partisan matter. Politicians from both sides of the aisle, majority and minority alike, as well as interest groups across the ideological spectrum, support unfiltered, unedited coverage. No party overtly favors keeping taxpaying voters in the dark. In Washington and Minnesota (and presumably in other states as well), elected officials who originally scoffed at the notion, or even voted against it, have become genuine enthusiasts. Television coverage, and now the Internet streaming that complements over-the-air or cable TV broadcasting, is regarded as "sunlight" on the legislative process. Moreover, once the sun has shone on enough legislators for a sufficient increment of time, there is no going back to an operating environment characterized by closed doors and deals in the shadows, or the dark days when the only way for citizens to access their legislature was to travel to the Capitol or be satisfied with the spotty, distorted, and dwindling coverage provided by the mainstream media.

The main objective of TVMT (or whatever acronymial creature actually takes shape) is to improve the connection between Montana citizens and their government. Television can overcome distance, detachment, and disaffection. In making this connection, and firming it up, over time, with the sinews of expanded programming, the endeavor might also help spawn a veritable cottage industry with substantial export potential. Video production is relatively clean, high tech, and demanding of the kind of skilled labor being turned out of the Montana University system's two schools of film and television as well as from community colleges, tribal colleges, and private institutions.

The quest for connectedness is a hallmark of the new millennium as well as the New Economy. People are interested in uncovering and rediscovering the many kinds of connections, visible and invisible, that already exist between individual citizens and among civic communities. People are keen on making fresh connections as well, taking advantage of what technology affords, and seeking to make such technologies financially affordable for all classes of citizens, rich, poor, and in-between. Experience in other states demonstrates that television and the Internet can be effective tools for bringing people into closer contact with their government. The resulting intimacy may bring a renewed sense of vigor and legitimacy to institutions that have seemingly become disconnected from the people they are intended to serve.

### Source Materials

Congressional Outlook, March 11, 2000, a supplement to CQ Weekly with the banner: "Who Will Get Connected? How Washington and E-Business Choose the Haves and Have-Nots of the Internet".

"Falling Through the Net: Defining the Digital Divide: A Report on the Telecommunications and Information Technology Gap in America", National Telecommunications and Information Administration, U.S. Department of Commerce, July, 1999.

A 1998 research paper entitled "The Impact of Government Access TV", by J.H. Snider, a political scientist from Northwestern University, is available at TV Washington's web site, [www.tvw.org](http://www.tvw.org)

The Fall 1999 issue of Philosophy and Public Policy, a publication of the University of Maryland's School of Public Affairs, features a well-researched article by William Galston called "Does the Internet Strengthen Community?"

"Closing the Digital Divide in Rural America", Edwin Parker, in Telecommunications Online, the International Journal on Knowledge, Infrastructure Development, Management and Regulation, Volume 24, No. 4, May, 2000. (Downloadable at <http://www.tpeditor.com/contents/2000/parker.htm>)



## INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,  
ALL MEETINGS ARE HELD IN HELENA.

### MAY

May 3, Public Information Subcommittee, KUSM Studio, Montana State University-Bozeman

May 4, Water Policy Subcommittee, Federal Building, Room B7, 8 a.m.

May 4, Land Use/Environmental Trends Subcommittee, Federal Building, Room B7, 10 a.m.

May 4, MEPA Subcommittee, Department of Environmental Quality, 1520 E. Sixth Avenue, Director's Conference Room, 1 p.m.

May 4, Eminent Domain Subcommittee, Federal Building, Room B7, 1 p.m.

May 5, Environmental Quality Council, Department of Environmental Quality, 1520 E. Sixth Avenue, Director's Conference Room

May 5, Joint Meeting of Water Policy Subcommittee and Land Use/Environmental Trends Subcommittee, Department of Environmental Quality, Director's Conference Room, 2 p.m.

May 8, Special Session of the 56th Legislature, 9 a.m.

May 9, Postsecondary Education Policy and Budget Subcommittee, Cogswell Building, Room C209, 6:30 p.m.

### JUNE

June 7, Mental Health Managed Care Subcommittee, Federal Building (or 1st floor Capitol Building, if renovation is complete)

- June 7, Information Technology Management Study Subcommittee, Federal Building (or 1st floor Capitol Building, if renovation is complete)
- June 8, Subcommittee on Statutory Appropriations and Dedicated Revenue, Federal Building, Room 487 (or 1st floor Capitol Building, if renovation is complete)
- June 8-9, Legislative Finance Committee, Federal Building, Room B7 (or 1st floor Capitol Building, if renovation is complete)
- June 9, Legislative Council
- June 20-21, State Administration, Public Retirement Systems, and Veterans' Affairs Committee
- June 21, Children, Families, Health, and Human Services Committee
- June 22, Subcommittee on Military and Veterans' Affairs, Dillon
- June 22-23, Education and Local Government Committee, Capitol Building, Room 172
- June 22-23, Business, Labor, and Agriculture Committee
- June 23, Transition Advisory Committee
- June 29, Revenue and Taxation Committee



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